

REMARKS

In response to the Office Action, Applicant has cancelled independent claim 1, thereby obviating the previous rejection. Pursuant to 37 C.F.R. §§ 1.607(a)(1), Applicant hereby notifies the Examiner that, in the above captioned patent application, Applicant has copied claims from U.S. Patent 6,542,602 (hereinafter "the '602 patent"), which issued on April 1, 2003. The present application claims priority to and is a continuation of U.S. Patent Application Serial No. 09/388,909, which has an effective filing date of August 31, 1999. The '602 patent has an effective filing date of February 14, 2000, which makes Applicant the senior party.

Pursuant to 37 C.F.R. § 1.607(a)(2), Applicant herein suggests the following counts:

Count 1

A method for monitoring telephonic interactions of an agent with customers, the method comprising:

- (a) pre-recording a first speech portion of a telephone call received by an agent;
- (b) determining whether said first speech portion satisfies a monitoring condition,

and, if so:

- (c) recording at least a second portion of said telephone call.

Pursuant to 37 C.F.R. § 1.607(a)(3), claim 6 of the '602 patent corresponds exactly to proposed count 1.

Count 2

A method for monitoring telephonic interactions of an agent with customers, the method comprising:

- (a) pre-recording a first speech portion of a telephone call received by an agent;
- (b) determining whether said first speech portion satisfies a monitoring condition,

and, if so:

- (c) recording at least a second portion of said telephone call; and

(d) wherein said determining step comprises determining a speech rate of words spoken during said telephone call and wherein said monitoring condition is whether said speech rate exceeds a predetermined level.

Pursuant to 37 C.F.R. § 1.607(a)(3), claim 10 of the '602 patent substantially corresponds to proposed count 2. Count 2 differs from claim 10 of the '602 patent in that the monitoring condition is whether the speech rate exceeds a predetermined level as opposed to a predefined speech rate. The claim limitation of a predetermined level corresponds identically to the claim limitation of a predefined speech rate. Applicant's predetermined level limitation is directly related to the rate of speech.

Count 3

A method for monitoring telephonic interactions of an agent with customers, the method comprising:

- (a) pre-recording a first speech portion of a telephone call received by an agent;
- (b) determining whether said first speech portion satisfies a monitoring condition,

and, if so:

- (c) recording at least a second portion of said telephone call; and
- (d) wherein said determining step comprises determining a state of emotion

present during said telephone call and wherein said monitoring condition is whether said state of emotion exceeds a predefined emotion threshold.

Pursuant to 37 C.F.R. § 1.607(a)(3), claim 14 of the '602 patent corresponds exactly to proposed count 3 if rewritten in independent claim form.

Claim 2-4 of the present application correspond to proposed counts 1-3. Accordingly, the requirements of 37 C.F.R. § 1.607(a)(4) have been met.

Pursuant to 37 C.F.R. § 1.607(a)(5), Applicant hereby sets forth the following claim charts that apply the terms of the pending claims of the application that are identified as corresponding to each count as well as to the disclosure of the application.

Count 1

| Applicant's Claim 2 | Support In Applicant's Specification |
|---|--|
| 2. A method for monitoring telephonic interactions of an agent with customers, the method comprising: | Page 16, lines 2-10; Page 26, lines 3-5; Page 26, lines 25-28; and throughout the specification. |
| (a) pre-recording a first speech portion of a telephone call received by an agent; | Page 26, lines 21-23; and throughout the specification. |
| (b) determining whether said first speech portion satisfies a monitoring condition, and, if so: | Page 26, lines 17-21; and throughout the specification. |
| (c) recording at least a second portion of said telephone call. | Page 26, lines 21-23; and throughout the specification. |

Count 2

| Applicant's Claim 3 | Support In Applicant's Specification |
|---|--|
| 2. A method for monitoring telephonic interactions of an agent with customers, the method comprising: | Page 16, lines 2-10; Page 26, lines 3-5; Page 26, lines 25-28; and throughout the specification. |
| (a) pre-recording a first speech portion of a telephone call received by an agent; | Page 26, lines 21-23; and throughout the specification. |
| (b) determining whether said first speech portion satisfies a monitoring condition, and, if so: | Page 26, lines 17-21; and throughout the specification. |
| (c) recording at least a second portion of said telephone call. | Page 26, lines 21-23; and throughout the specification. |
| (d) wherein said determining step comprises determining a speech rate of words spoken during said telephone call and wherein said monitoring condition is whether said speech rate exceeds a predetermined level. | Page 2, line 13; Page 20, line 18 and 24; Page 22, line 3; and throughout the specification. |

Count 3

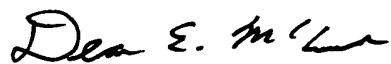
| Applicant's Claim 4 | Support In Applicant's Specification |
|---|--|
| 2. A method for monitoring telephonic interactions of an agent with customers, the method comprising: | Page 16, lines 2-10; Page 26, lines 3-5; Page 26, lines 25-28; and throughout the specification. |
| (a) pre-recording a first speech portion of a telephone call received by an agent; | Page 26, lines 21-23; and throughout the specification. |
| (b) determining whether said first speech portion satisfies a monitoring condition, and, if so: | Page 26, lines 17-21; and throughout the specification. |

| | |
|--|---|
| (c) recording at least a second portion of said telephone call. | Page 26, lines 21-23; and throughout the specification. |
| (d) wherein said determining step comprises determining a state of emotion present during said telephone call and wherein said monitoring condition is whether said state of emotion exceeds a predefined emotion threshold. | Page 26, lines 17-19; and throughout the specification. |

Applicant's application is clearly directed towards monitoring telephone call conversations between agents and customers in a call center environment. The entire conversations between the agents and customers may be recorded, or portions of the conversations may be recorded, if the claimed invention detects that a monitoring condition is satisfied. As set forth in Applicant's specification, the preferred monitoring condition is nervousness, however, other emotions may be monitored as well. *See* Page 25, line 29 to Page 26, line 2. The '602 patent is directed toward the same type of monitoring conditions and contains claims identical to, or virtually identical to, the pending claims of the present application. Applicant's present claims are patentable over the prior art of record and Applicant is entitled to a patent for these claims.

The pending claims of the present application have been placed in the application less than one year after the issue date of the patent. As such, the requirements of 37 C.F.R. § 1.607(a)(6) are met as well. Further, Applicant's effective filing date is more than three months earlier than the effective filing date of the '602 patent. To that end, Applicant respectfully requests the declaration of an interference between the present application and the '602 patent with Applicant designated as the senior party.

Respectfully submitted,



Dean E. McConnell
Attorney Reg. No. 44,916

BRINKS HOFER GILSON & LIONE
One Indiana Square, Suite 1600
Indianapolis, Indiana 46204
Telephone: 317-636-0886
Facsimile: 317-634-6701